

Notice of Allowability

Application No.

10/728,226

Examiner

Bradley B. Bayat

Applicant(s)

WALKER ET AL.

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to request for continued examination filed on February 21, 2006.
2. ☒ The allowed claim(s) is/are 38,39,41,42,45,46,48 and 49.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 2/21/2006
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114.

Applicant's submission filed on February 21, 2006 has been entered.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 2/21/2006 was filed after the mailing date of the Notice of Allowance on 11/23/2005 with a request for continued examination. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

STATUS OF CLAIMS

- Claims 38, 39, 41, 42, 45, 46, 48, and 49 were amended.
- Claims 28-37, 40, 43, 44, and 47 were cancelled
- Claims 38, 39, 41, 42, 45, 46, 48, and 49 are pending and allowable.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

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Authorization for this examiner's amendment was given in a telephone interview with Michael Downs (Reg. No, 50,252) on October 25, 2005.

1 - 37. (CANCELLED)

38. (PREVIOUSLY PRESENTED)

An apparatus comprising:

a processor; and

a storage device that stores a program for directing the processor,

the processor being operative with the program to:

receive transaction data that represents a transaction,

receive an identifier that identifies a customer participating in the transaction,

determine a customer rating of the customer,

determine a grace period based on the customer rating,

determine a time of the transaction,

determine whether the time of the transaction is within the grace period,

determine a second discount based on a first discount, the customer rating, and the time of the transaction, and

apply the second discount to the transaction,

wherein determining the second discount comprises:

setting the second discount equal to the first discount if the time of the transaction is within the grace period.

39. (PREVIOUSLY PRESENTED)

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An apparatus comprising:

a processor; and

a storage device that stores a program for directing the processor,

the processor being operative with the program to:

receive transaction data that represents a transaction,

receive an identifier that identifies a customer participating in the transaction,

determine a customer rating of the customer,

determine a grace period based on the customer rating,

determine a time of the transaction,

determine whether the time of the transaction is within the grace period,

determine a second discount based on a first discount, the customer rating, and the time of the transaction, and

apply the second discount to the transaction,

wherein determining the second discount comprises:

setting the second discount less than the first discount if the time of the transaction is not within the grace period.

40. (CANCELLED)

41. (PREVIOUSLY PRESENTED)

An apparatus comprising:

a processor; and

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a storage device that stores a program for directing the processor,
the processor being operative with the program to:
receive transaction data that represents a transaction,
receive an identifier that identifies a customer participating in the transaction,
determine a customer rating of the customer,
determine a time of the transaction,
determine a second discount based on a first discount, the customer rating, and the time of
the transaction, and
apply the second discount to the transaction,
wherein determining the second discount comprises:
determining a discount increment based on:
the customer rating, and
the time of the transaction; and
determining the second discount, at a time when the customer is present at a point-of-sale
terminal and participating in the transaction, based on the first discount and the discount
increment;
and wherein applying comprises:
applying the second discount to the transaction when the customer is present at the point-of-
sale terminal and participating in the transaction.

42. (PREVIOUSLY PRESENTED)

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An apparatus comprising:

a processor; and

a storage device that stores a program for directing the processor,

the processor being operative with the program to:

receive transaction data that represents a transaction,

receive an identifier that identifies a customer participating in the transaction,

determine a customer rating of the customer,

determine a time of the transaction,

determine a second discount based on a first discount, the customer rating, and the time of the transaction, and

apply the second discount to the transaction,

wherein determining the second discount comprises:

determining a discount decrement based on:

the customer rating, and

the time of the transaction; and

determining the second discount, at a time when the customer is present at a point-of-sale terminal and participating in the transaction, based on the first discount and the discount decrement;

and wherein applying comprises:

applying the second discount to the transaction when the customer is present at the point-of-sale terminal and participating in the transaction.

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43 - 44. (CANCELLED)

45. (PREVIOUSLY PRESENTED)

A computer readable medium encoded with instructions for directing a processor to:

receive transaction data that represents a transaction;

receive an identifier that identifies a customer participating in the transaction;

determine a customer rating of the customer;

determine a grace period based on the customer rating;

determine a time of the transaction;

determine whether the time of the transaction is within the grace period;

determine a second discount based on a first discount, the customer rating, and the time of the transaction; and

apply the second discount to the transaction,

wherein determining the second discount comprises:

setting the second discount equal to the first discount if the time of the transaction is within the grace period.

46. (PREVIOUSLY PRESENTED)

A computer readable medium encoded with instructions for directing a processor to:

receive transaction data that represents a transaction;

receive an identifier that identifies a customer participating in the transaction;

determine a customer rating of the customer;

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determine a grace period based on the customer rating;
determine a time of the transaction;
determine whether the time of the transaction is within the grace period;
determine a second discount based on a first discount, the customer rating, and the time of the transaction; and
apply the second discount to the transaction,
wherein determining the second discount comprises:
setting the second discount less than the first discount if the time of the transaction is not within the grace period.

47. (CANCELLED)

48. (PREVIOUSLY PRESENTED)

A computer readable medium encoded with instructions for directing a processor to:
receive transaction data that represents a transaction,
receive an identifier that identifies a customer participating in the transaction,
determine a customer rating of the customer,
determine a time of the transaction,
determine a second discount based on a first discount, the customer rating, and the time of the transaction, and
apply the second discount to the transaction,
wherein determining the second discount comprises:

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determining a discount increment based on:

the customer rating, and

the time of the transaction; and

determining the second discount, at a time when the customer is present at a point-of-sale

terminal and participating in the transaction, based on the first discount and the discount increment;

and wherein applying comprises:

applying the second discount to the transaction when the customer is present at the point-of-sale terminal and participating in the transaction.

49. (CURRENTLY AMENDED) ~~The computer readable medium of claim 33,~~

A computer readable medium encoded with instructions for directing a processor to:

receive transaction data that represents a transaction,

receive an identifier that identifies a customer participating in the transaction,

determine a customer rating of the customer,

determine a time of the transaction,

determine a second discount based on a first discount, the customer rating, and the time of the transaction, and

apply the second discount to the transaction,

wherein determining the second discount comprises:

determining a discount decrement based on:

the customer rating, and

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the time of the transaction; and

determining the second discount, at a time when the customer is present at a point-of-sale terminal and participating in the transaction, based on the first discount and the discount decrement;

and wherein applying comprises:

applying the second discount to the transaction when the customer is present at the point-of-sale terminal and participating in the transaction.

ALLOWABLE SUBJECT MATTER

Claims 38, 39, 41, 42, 45, 46, 48, and 49 are allowed over the prior art of record.

The following is an examiner's statement of reasons for allowance:

The closest prior art of record (U.S. Patent No. 5,687,322 to Deaton et al), Deaton et al shows a system for providing increasing or decreasing discounts to frequent shoppers based on their previous purchase history. Deaton et al teaches a method for improving a store's marketing and other customer relations programs by collecting transactional data for a store, both current and historical, that can be used to identify new or infrequent customers, develop customer profiles and to perform targeted marketing.

As per Claims 38, 39, 41, 42, 45, 46, 48, and 49, the closest prior art of record fails to teach or suggest determining a grace period based on the customer rating and determining a second discount specifically based upon the first discount, the customer rating, the second or current transaction data, whether the difference between the time of the second or current transaction and the time of the first or prior transaction is greater than a predetermined minimum transaction period and whether this difference is or is not greater than the grace period. The

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specific allowable feature, which distinguishes the present invention over the prior art is the determination of the second discount based upon the combination of all these limitations and parameters.

Furthermore, the closest prior art of record fails to teach or suggest determining a grace period based on the customer rating and applying a second discount specifically based upon the first discount, the customer rating, the second or current transaction data, whether the difference between the time of the second or current transaction and the time of the first or prior transaction is greater than a predetermined minimum transaction period and whether this difference is or is not greater than the grace period. The specific allowable feature, which distinguishes the present invention over the prior art, is applying a discount based upon the combination of limitations and parameters based on information about a transaction to that same transaction.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley B. Bayat whose telephone number is 571-272-6704. The examiner can normally be reached on Tuesday - Friday 8 a.m.-6:30 p.m. and by email: bradley.bayat@uspto.gov.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached regarding urgent matters at 571-272-6712.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(571) 273-8300 - Official communications; including After Final responses.

(571) 273-6704 - Informal/Draft communications to the examiner.

A handwritten signature in black ink, appearing to read 'Bradley B. Bayat', with a stylized flourish extending from the end.

Bradley B. Bayat, Esq.
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